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13 UNITED STATES DISTRICT COURT
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15 NORTHERN DISTRICT OF CALIFORNIA
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17 OAKLAND DIVISION

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UNITED STATES OF AMERICA,
v.
DANIEL ARMSTRONG,
Defendant.

**STIPULATION AND ORDER TO
MODIFY DEFENDANT DANIEL
ARMSTRONG'S CONDITIONS OF
RELEASE**

Case No. CR 02-40138-CW

Judge: Hon. Claudia Wilken (WDB)

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UNITED STATES OF AMERICA,
v.
SHAREEF HASTINGS, TERRI SCOTT,
JACKSON GRANT, AMANDA DE LA
MERCED, and DANIEL ARMSTRONG,
Defendants.

**STIPULATION AND ORDER TO
MODIFY DEFENDANT DANIEL
ARMSTRONG'S CONDITIONS OF
RELEASE**

Case No. CR 06-0336-SBA

Judge: Hon. Saundra B. Armstrong
(WDB)

1 **I. INTRODUCTION**

2 Since May 31, 2006, Daniel Armstrong has been confined to the Cornell Corrections
 3 halfway house in Oakland, California (“Cornell”), pursuant to the terms of his release on
 4 bond in the above-captioned matters. Mr. Armstrong is not accused of committing a crime
 5 of violence or a drug related crime. He does not pose a danger to the community. Mr.
 6 Armstrong has recently been granted permission to go to work everyday. Accordingly, Mr.
 7 Armstrong requests that he be released from confinement at Cornell Corrections to allow
 8 him to reside at his mother’s home, 3240 Sacramento Street #2, Berkeley California, subject
 9 to automatic voice-recognition curfew to be administered by Pretrial Services.

10 **II. STIPULATION**

11 The United States, by its counsel Alicia Fenrick, Esq., and Daniel Armstrong, by his
 12 attorney, Michael E. Liftik, Esq., stipulate as follows:

13 1. On May 9, 2006, the United States filed a grand jury indictment against
 14 Shareef Hastings, Terri Scott, Jackson Grant, Amanda De La Merced, and Mr. Armstrong
 15 alleging they participated in a conspiracy to commit bank fraud in violation of 18 U.S.C. §
 16 1349 (*United States v. Hastings, et al.*, case no. 06-cr-0336-SBA).

17 2. On May 11, 2006, the United States Probation Office filed a Petition for
 18 Summons for Offender Under Supervision alleging that Mr. Armstrong had violated the
 19 terms of his supervised release in a separate, earlier matter, *United States v. Daniel*
 20 *Armstrong*, case no. 02-cr-40138-CW.¹ The Petition alleged that Mr. Armstrong
 21 inadequately documented his employment, failed to submit certain monthly reports in a

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 25 ¹ On November 4, 2002, Mr. Armstrong pled guilty in *Armstrong* to one count of
 26 fraudulent use of an access device, 18 U.S.C. § 1029(a)(2), aiding and abetting, 18 U.S.C. §
 27 2. He was initially sentenced, in part, to five years probation. On April 4, 2005, based on
 28 unrelated charges, Mr. Armstrong’s probation was revoked and he was sentenced to six
 months in prison and three years supervised release.

1 timely manner, and missed appointments with his probation officer.² A hearing was set for
 2 May 24, 2006 to identify counsel and set further proceedings in the *Armstrong* matter.

3 3. On May 24, 2006, when Mr. Armstrong appeared in Court for the status
 4 conference in the *Armstrong* matter, the government arrested Mr. Armstrong on the
 5 *Hastings* indictment, he was arraigned, and on motion by the government, taken into
 6 custody.

7 4. On May 30, 2006, the Court held a bail hearing in both *Hastings* and
 8 *Armstrong*. Mr. Armstrong was released on conditions which included the execution of a
 9 \$100,000 unsecured bond by two of Mr. Armstrong's friends, a set of standard release
 10 conditions, and the requirement that he must reside at Cornell, and may leave only as
 11 directed by Pretrial Services and Probation. Mr. Armstrong was released to Cornell on May
 12 31 and has resided there ever since.

13 5. The *Hastings* matter has had two status conferences on June 27, 2006 and July
 14 25, 2006 before Judge Armstrong. Because of the volume of discovery the government
 15 produced, as well as the multiple parties involved, Judge Armstrong determined that the
 16 case was complex, and has continued the case for further trial setting and status until
 17 September 19, 2006. A hearing on the alleged supervised release violation is scheduled for
 18 September 25, 2006, although both parties recognize that this proceeding will necessarily
 19 continue to trail progress in the *Hastings* matter. It is anticipated that *Hastings* is several
 20 months from trial.

21 6. Recently, Mr. Armstrong secured employment at Hard Labor Music, LLC,
 22 1924 Franklin Street, Studio B, Oakland, CA 94612, (510) 903-9780, under the supervision
 23 of Charles Lindsay where he works from 8:00 a.m. until 5:00 p.m. Mr. Armstrong's
 24 probation officer, Jacqueline Sharpe has confirmed this employment.

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 27 2 The Petition was later amended to add the *Hastings* indictment as a new alleged
 28 violation.

1 7. In light of Mr. Armstrong's successful residency at Cornell, and his recent
 2 employment, Mr. Armstrong requests, and the government agrees to, a modification of the
 3 terms of his release so that he may reside at 3240 Sacramento Street #2, Berkeley
 4 California, his mother's home, subject to an automatic voice-recognition curfew to be
 5 administered by Pretrial Services.

6 8. Pursuant to Judge Brazil's Standing Order dated April 12, 2001, counsel for
 7 Mr. Armstrong contacted Assistant United States Attorney Alicia Fenrick, United States
 8 Probation Officer Jacqueline Sharpe, and United States Pretrial Services Officer Victoria
 9 Gibson regarding this request. All parties for the government agree to Mr. Armstrong's
 10 request pursuant to the conditions enumerated below. The colloquy between the parties is
 11 contained in the Attestation of Michael Liftik, filed herewith.

12 9. For the foregoing reasons, the parties stipulate and agree that Mr. Armstrong's
 13 Conditions of Release and Appearance, dated May 30, 2006 shall be modified as follows:

14 A. The Condition that Mr. Armstrong must reside at the Cornell Halfway
 15 House and may leave only as directed by Pretrial Services and Probation is eliminated.

16 B. In the matter of *United States v. Hastings, et al.*, Case No. CR 06-
 17 0336-SBA, Mr. Armstrong is required to reside at 3240 Sacramento Street #2, Berkeley
 18 California, subject to an automatic voice-recognition curfew to be administered by Pretrial
 19 Services.

20 C. In the matter of *United States v. Armstrong*, Case No. CR 02-40138-CW, Mr. Armstrong is subject to the remaining conditions set forth in the Conditions of
 21 Release and Appearance dated May 30, 2006 as directed by Probation.

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1 DATED: June 9, 2006

Respectfully submitted,

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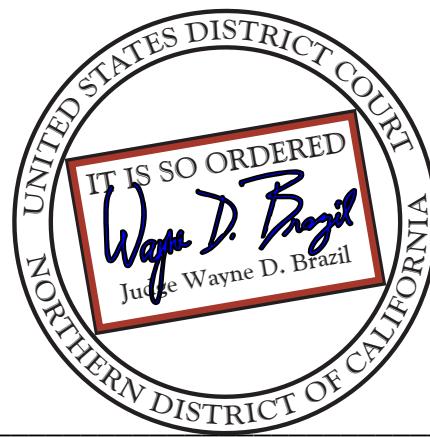
By _____ /S/
MICHAEL E. LIFTIK
Attorneys for Defendant
DANIEL ARMSTRONG

By _____ /S/
ALICIA FENRICK*
Assistant United States Attorney

* I, Michael E. Liftik, under whose ECF user id and password this document is filed, attest that Alicia Fenrick has read and approved the STIPULATION AND [PROPOSED] ORDER TO MODIFY DEFENDANT DANIEL ARMSTRONG'S CONDITIONS OF RELEASE and consents to its filing in this action.

IT IS SO ORDERED

DATED: August 31, 2006



THE HONORABLE WAYNE BRAZIL
UNITED STATES MAGISTRATE JUDGE